

**ASSEMBLY BILL**

**No. 1523**

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**Introduced by Assembly Member Charles Calderon**

February 27, 2009

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An act to add Section 6376.3 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1523, as introduced, Charles Calderon. Sales and use taxes: exemption: fixed price contract.

Existing law imposes a state sales and use tax on retailers and on the storage, use, or other consumption of tangible personal property in this state at the rate of  $6\frac{1}{4}\%$  of the gross receipts from the retail sale of tangible personal property in this state and of the sales price of tangible personal property purchased from any retailer for storage, use, or other consumption in this state.

This bill would, during the period of a 1% sales and use tax increase above the rate of  $6\frac{1}{4}\%$ , exclude from that 1% rate of tax, the gross receipts from certain sales and uses of tangible personal property that are subject to a fixed price pursuant to a contract entered into prior to the operative date of the sales and use tax increase.

Counties and cities are authorized to impose local sales and use taxes in conformity with state sales and use taxes. Exemptions from state sales and use taxes enacted by the Legislature are incorporated into the local taxes.

Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6376.3 is added to the Revenue and  
2 Taxation Code, to read:

3 6376.3. From the operative date of the act adding Sections  
4 6051.7 and 6201.7, to the date on which the taxes imposed by  
5 Sections 6051.7 and 6201.7 cease to be operative, there is exempted  
6 from the taxes imposed by this part an amount equal to an amount  
7 that is attributable to a 1 percent rate of tax with respect to the  
8 following:

9 (a) The gross receipts from the sale of, and the storage, use, or  
10 other consumption in this state of, the following:

11 (1) Tangible personal property, if the seller is obligated to  
12 furnish or the purchaser is obligated to purchase the property for  
13 a fixed price pursuant to a contract entered into prior to the  
14 operative date of the act adding Sections 6051.7 and 6201.7.

15 (2) Materials and fixtures obligated pursuant to an engineering  
16 construction contract or a building construction contract entered  
17 into for a fixed price prior to the operative date of the act adding  
18 Sections 6051.7 and 6201.7.

19 For purposes of this subdivision, tangible personal property shall  
20 not be deemed obligated pursuant to a contract for any period of  
21 time for which any party to the contract has the right to terminate  
22 the contract upon notice, whether or not the right is exercised.

23 (b) A lease of tangible personal property that is a continuing  
24 sale of the property for any period of time for which the lessor is  
25 obligated to lease the property for an amount fixed by the lease  
26 prior to the operative date of the act adding Sections 6051.7 and  
27 6201.7. For purposes of this subdivision, the sale or lease of  
28 tangible personal property shall be deemed not to be obligated  
29 pursuant to a contract or lease for any period of time for which  
30 any party to the contract or lease has the unconditional right to

1 terminate the contract or lease upon notice, whether or not that  
2 right is exercised.

3 (c) The possession of, or the exercise of, any right or power  
4 over tangible personal property pursuant to a lease that is a  
5 continuing purchase of the property for any period of time for  
6 which the lessee is obligated to lease the property for an amount  
7 fixed by a lease entered into prior to the operative date of the act  
8 adding Sections 6051.7 and 6201.7. For purposes of this  
9 subdivision, the storage, use, or other consumption of, or  
10 possession of, or exercise of any right or power over, tangible  
11 personal property shall be deemed not to be obligated pursuant to  
12 a contract or lease for any period of time for which any party to  
13 the contract or lease has the unconditional right to terminate the  
14 contract or lease upon notice, whether or not the right is exercised.

15 SEC. 2. Notwithstanding Section 2230 of the Revenue and  
16 Taxation Code, no appropriation is made by this act and the state  
17 shall not reimburse any local agency for any sales and use tax  
18 revenues lost by it under this act.

19 SEC. 3. This act provides for a tax levy within the meaning of  
20 Article IV of the Constitution and shall go into immediate effect.